

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

UNITED STATES OF AMERICA,

No. 2:95-cr-20 WBS

Plaintiff,

v.

ORDER

JUAN AGUILAR-CORTEZ,

Defendant.

-----oo0oo-----

After this court denied defendant Juan Aguilar-Cortez's motion for compassionate release under 18 U.S.C. § 3582(c) (1) (A) (i) and motion to reconsider, defendant appealed and the Ninth Circuit remanded the case for further consideration under the standard set forth in United States v. Aruda, 993 F.3d 797 (9th Cir. 2021).

Pursuant to Aruda, 993 F.3d at 802, the court recognizes that U.S.S.G. § 1B1.13 is not binding on this court, though it "may inform a district court's discretion for § 3582(C) (1) (A) motions filed by a defendant." See id.

1 Accordingly, the court considers the Sentencing Commission's
2 policy statements, including U.S.S.G. § 1B1.13, in deciding the
3 instant motion.

4 The court once again notes defendant's age¹ and various
5 medical conditions including diabetes, hypertension, and his
6 prior positive test for COVID-19, as well as the prevalence of
7 COVID-19 at FCI Victorville, where he is housed. However, the
8 court finds that the Bureau of Prisons has been able to
9 sufficiently treat his medical conditions, including his
10 diagnosis of COVID-19. Further, any risk defendant faces due to
11 his age, medical conditions, and placement at FCI Victorville is
12 greatly diminished by the availability of COVID-19 vaccines,
13 which at this point have almost certainly been offered to
14 defendant. Ultimately, the court determines that defendant has
15 not shown that his age and medical conditions, along with the
16 COVID-19 pandemic, qualify as extraordinary and compelling
17 reasons for release under 18 U.S.C. § 3582(c)(1)(A).

1 sentencing statute's requirements are met." (Docket Nos. 336,
2 338 (quoting United States v. Diaz, 838 F.3d 968, 972 (9th Cir.
3 2016).) Under all the relevant factors, the court rejects
4 defendant's contention that the reclassification of his prior
5 state conviction warrants compassionate release, either alone or
6 in combination with defendant's age, medical condition, and the
7 COVID-19 pandemic.

8 IT IS THEREFORE ORDERED that defendant Juan Aguilar-
9 Cortez's motion for compassionate release and motion to
10 reconsider (Docket Nos. 326, 337), be, and the same hereby are,
11 DENIED.

12 Dated: January 12, 2022


13 WILLIAM B. SHUBB
14 UNITED STATES DISTRICT JUDGE

15
16
17
18
19
20
21
22
23
24
25
26
27
28